



FEDERAL ELECTION COMMISSION
Washington, DC 20463

December 2, 1978

AO 1978-88

Senator Ronald R. Hein
Ron Hein for Congress
2824 Seabrook
Topeka, Kansas 66614

Dear Mr. Hein:

This refers to your letter of November 6, 1978, requesting an advisory opinion concerning application of the Federal Election Campaign Act of 1971, as amended ("the Act"), to your participation in the filming of certain public service announcements to raise money for diabetes research.

Your letter explains that you were a candidate for the U.S. House of Representatives from Kansas this year but lost in the Republican Primary on August 1st. You state that you are not now a candidate for any Federal office but that your Federal campaign committee is still operational since you have approximately \$43,000 in campaign debts which you are endeavoring to extinguish through post-election fundraising efforts. You also indicate that you have been and continue to be active in the American Diabetes Association, its Kansas affiliate, and the Topeka Diabetes Association, and that you are planning to appear in a number of public service announcements for diabetes research to be aired by a local television station. Of these announcements, you state:

"... there will be no reference to my candidacy for Congress in the commercials. We will probably make reference to my being in the State Senate, because we hope to show that persons suffering from juvenile diabetes, as opposed to maturity on-set diabetes, can live a complete, and active life. Likewise, there will be no appeal for funds for any campaigns of a political nature, although there will probably be in some of the cuts appeals for contributions for diabetes research, . . ."

You ask now for confirmation of your belief that the publicity which may result from the airing of such public service announcements would not constitute impermissible in-kind contributions to your campaign, since your committee is still active and you are still raising money to extinguish campaign debts.

Although it is possible, as you recognize in your request, that your involvement in the suggested public service announcements may indirectly benefit your post-election fundraising efforts, the Commission concludes that in the circumstances you have described, the purpose of your appearances on behalf of the diabetes associations is not your nomination or election to Federal office. See the definition of "contribution" and "expenditure" at 2 U.S.C. 431(e) and (f) and particularly 2 U.S.C. 431(f)(4)(F). This conclusion is based on your representation that no reference will be made to your candidacy for Congress and that no appeals will be made for funds for your Federal campaign. See Advisory Opinions 1978-15, 1978-4 and 1977-54, copies enclosed.

This response constitutes an advisory opinion concerning application of a general rule of law stated in the Act or prescribed as a Commission regulation, to the specific factual situation set forth in your request. See 2 U.S.C. 437f.

Sincerely yours,

(signed)
Joan D. Aikens
Chairman for the
Federal Election Commission

Enclosures